CHAPTER 28

PUBLIC FORESTS

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Cross-reference: See definitions in s. 24.01.

28.005 Definition. "Department" when used in this chapter without other words of description or qualification means the department of natural resources.

28.01 Forestry supervision. The department shall execute all matters pertaining to forestry within the jurisdiction of the state, direct the management of state forests, collect data relative to forest use and conditions and advance the cause of forestry within the state.

Cross-reference: See also ss. NR 1.21, 1.211, 1.212, 1.213, and 1.22, Wis. adm. code.

28.015 Forestry demonstration and education center. The department shall develop a plan to establish a forestry demonstration and education center.

History: 2001 a. 16.

28.02 State forests lands. (1) DEFINED. State forests lands include all lands granted to the state by an act of congress entitled, "An act granting lands to the state of Wisconsin for forestry purposes," approved June 27, 1906; all lands donated to the state by the Nebagamon Lumber Company for forestry purposes; all lands acquired pursuant to chapter 450, laws of 1903, chapter 264, laws of 1905, chapter 638, laws of 1911, and chapter 639, laws of 1911, or under ss. 1494-41 to 1494-62, 1915 stats., and all lands subsequently acquired for forestry purposes. Unless an island is designated as state forest land by the department, state forest lands do not include lands granted to the state by an act of congress entitled, "An act granting unsurveyed and unattached islands to the state of Wisconsin for forestry purposes," approved August 22, 1912. The department may designate as state forest lands any lands within state forest boundaries which were purchased with other conservation funds and where forestry would not conflict with a more intensive use.

(2) ACQUISITION. The department may acquire lands or interest in lands by grant, devise, gift, condemnation or purchase within the boundaries of established state forests or purchase areas; and outside of such boundaries for forest nurseries, tracts for forestry research or demonstration and for forest protection structures, or for access to such properties. In the case of condemnation the department shall first obtain approval from the appropriate standing committees of each house of the legislature as determined by the presiding officer thereof.

(3) DISPOSITION OF IMPROVEMENTS. Buildings not required for administrative or other public use may be razed for salvage material. Otherwise they shall be sold.

(4) SALE OF STATE FOREST LANDS. (a) Lands outside state forest boundaries may be sold pursuant to s. 23.15.

(b) Lands within state forest boundaries may be sold pursuant to s. 23.15, after public hearing in the county courthouse of the county in which the lands to be sold are located, following class 2 notices published, under ch. 985, in the county, and in the official state paper, for the following purposes only:

1. To a local unit of government when required for a public use.

2. To others for the purpose of making land adjustments due to occupancy resulting from errors of survey.

3. To convey good quality, arable land.

4. To settle land title disputes.

5. To public utilities, cooperatives organized under ch. 185 to furnish gas, light, heat, power, or water to their members, and to telecommunications cooperatives formed under ch. 185 or 193 when needed for power and telecommunications substations, transformers, booster stations and similar installations.

6. When no longer needed for conservation purposes.

(5) EASEMENTS. The department may grant easements for a right-of-way for public or private roads or public utility lines, or for flowage rights where it finds that any such use at the designated location does not conflict with the planned development of the forest. Easements for public roads shall be granted for a nominal sum; in all other cases the appraised value shall be required in payment.

(6) CERTAIN LEASES FORBIDDEN. No lease shall hereafter be issued or any existing lease extended or renewed by the department on any unsurveyed and unattached islands in inland lakes north of the township line between townships 33 and 34 north, and granted to the state by an act of congress, approved August 22, 1912, entitled "An act granting unsurveyed and unattached islands to the state of Wisconsin for forestry purposes," except that the department may extend or renew any such leases in existence June 25, 1925, to public charitable, religious, educational or other associations not organized for profit, and except that the department may extend or renew any such leases in existence June 25, 1925, on islands upon which improvements have been made.

History: 1977 c. 29; 1983 a. 192; 1983 a. 423 s. 12; 1985 a. 30 s. 42; 1985 a. 297 s. 76; 1993 a. 16; 2005 a. 441.

Cross-reference: See also s. NR 1.42, Wis. adm. code.

28.025 Annual allowable timber harvests. (1) In this section, "forested property" means forested property owned by this state and under the jurisdiction of the department from which timber is harvested.

(2) The department shall establish annual allowable timber harvests for each forested property. The department may establish a single annual allowable timber harvest that applies to 2 or more forested properties in a particular region of this state, as determined by the department, if each one of those forested properties is smaller than 5,000 forested acres and if all of the proceeds from the sale of timber harvested on those combined forested

properties are credited to appropriations under s. 20.370 that provide funding for the same purpose, as determined by the department.

(3) (a) 1. By January 1, 2007, and biennially thereafter, the department shall submit a report to the council on forestry specifying the total timber harvest on each forested property for the previous biennium, except as provided under par. (b).

2. Notwithstanding subd. 1, the department shall submit its report to the council on forestry as required under subd. 1. by January 1, 2009, and biennially thereafter, if the forested property that is the subject of the report has not been inventoried by the department under s. 23.135.

(b) If, under sub. (2), the department establishes an annual allowable timber harvest for combined forest properties, the department may submit a report that specifies the total timber harvest for these combined properties.

(c) If the department submits a report under this section that states that the timber harvest for forested property in any biennium is less than 90 percent, or more than 110 percent, of the allowable timber harvest established under sub. (2), the council on forestry shall prepare a report containing the reasons for noncompliance and recommendations on methods of ensuring that the timber harvest is consistent with the annual allowable timber harvest established by the department under sub. (2). The council on forestry shall submit the report to the governor, to the department, and to the appropriate standing committees of the legislature under s. 13.172 (3).

History: 2005 a. 166; 2007 a. 97.

28.03 State forests. (1) DEFINED. State forests shall consist of well blocked areas of state owned lands which have been established as state forests by the department.

(2) NAMED. The state forests are designated as follows:

(a) "American Legion State Forest" in Oneida County.

(b) "Brule River State Forest" in Douglas County.

(c) "Flambeau River State Forest" in Sawyer, Rusk and Price counties.

(d) "Kettle Moraine State Forest" in Sheboygan, Fond du Lac, Washington, Waukesha, Jefferson, Ozaukee and Walworth counties.

(e) "Northern Highland State Forest" in Vilas and Iron counties.

(f) "Point Beach State Forest" in Manitowoc County.

(3) DEPARTMENT MAY NAME. The department may designate by appropriate name any state forest not expressly named by the legislature.

28.035 American Legion State Forest. (1) The state forest located in townships 38 and 39 north, ranges 7, 8 and 9 east, Oneida County, shall be named the American Legion State Forest.

(2) The department shall enter into an agreement with the Wisconsin department of the American Legion for hunting in the state forest lands described as lots 3, 4, 6 and 7 of section 8 and lots 2 and 3 of section 17, township 38 north, range 7 east, Oneida County, which are used in connection with Camp American Legion and which the Legion is now maintaining on this location as a restoration camp for sick and disabled veterans and their dependents.

(3) (a) The written lease entered into between the Wisconsin state department of the American Legion and the department of natural resources dated June 15, 1944, which leases Camp American Legion for a period of 10 years commencing June 1, 1944, shall continue in full force for an additional 10 years, and may be renewed for additional 10-year periods, notwithstanding the expiration of the term expressed in the lease, so long as the Wisconsin state department of the American Legion or any of the American Legion posts organized under s. 188.08 maintains on the property structures which were constructed prior to May 31, 1956, at the expense of the Wisconsin state department of the American Legion or any post, for the purpose of the rehabilitation, restoration, or recreation of veterans and their dependents of the Spanish-American War, the Philippine Insurrection, the Mexican border service, World Wars I and II, the Korean conflict, the Vietnam War, the Iraq War, and service in a crisis zone, as defined in s. 45.01 (11).

(b) The ownership of all of the buildings and equipment of the camp shall revert to the state upon the discontinuance of the use thereof for such purposes. On or before January 15 of each year the department of the American Legion shall file with the governor, the department of veterans affairs and the department of natural resources a written report of the operations and the financial status of the camp.

History: 1971 c. 164; 1977 c. 29 s. 537; 1977 c. 224; 1979 c. 34; 1983 a. 430; 1987 a. 399; 1991 a. 2, 165; 1993 a. 16; 2003 a. 83; 2005 a. 22; 2015 a. 196.

28.04 Management of state forests. (1) DEFINITIONS. In this section:

(a) "Biological diversity" means the variety and abundance of species, their genetic composition, and the communities, ecosystems and landscapes in which they occur. "Biological diversity" also refers to the variety of ecological structures, functions and processes at any of these levels.

(b) "Community" means an assemblage of species living together in a particular area, time and habitat.

(c) "Ecological capability" means the potential of an area to support or develop one or more communities through management, with the potential being dependent on the area's abiotic attributes, its flora and fauna, its ecological processes and disturbances within and upon the area.

(d) "Native" means indigenous to the area or region.

(e) "Sustainable forestry" means the practice of managing dynamic forest ecosystems to provide ecological, economic, social and cultural benefits for present and future generations.

(2) PURPOSES AND BENEFITS OF STATE FORESTS. (a) The department shall manage the state forests to benefit the present and future generations of residents of this state, recognizing that the state forests contribute to local and statewide economies and to a healthy natural environment. The department shall assure the practice of sustainable forestry and use it to assure that state forests can provide a full range of benefits for present and future generations. The department shall also assure that the management of state forests is consistent with the ecological capability of the state forest land and with the long-term maintenance of sustainable forest communities and ecosystems. These benefits include soil protection, public hunting, protection of water quality, production of recurring forest products, outdoor recreation, native biological diversity, aquatic and terrestrial wildlife, and aesthetics. The range of benefits provided by the department in each state forest shall reflect its unique character and position in the regional landscape.

(b) In managing the state forests, the department shall recognize that not all benefits under par. (a) can or should be provided in every area of a state forest.

(c) In managing the state forests, the department shall recognize that management may consist of both active and passive techniques.

(3) STATE FOREST PLANS. (a) The department shall prepare a plan for each state forest that describes how the state forest will be managed. The department shall work with the public to identify property goals and objectives that are consistent with the pur-

poses under sub. (2). The department shall identify in each plan the objectives of management for distinct areas of the state forest.

(am) 1. In this paragraph, "forest production area" means an area in a state forest that has been classified by the department in preparing plans under par. (a) as an area in which the primary management objective relates to the production of timber and other forest products.

2. Notwithstanding par. (a), the department shall do all of the following with respect to managing a forest production area:

a. Establish the primary management objective of a forest production area to be the production of timber and other forest products.

b. Maximize timber production on forest production areas while using accepted silvicultural practices.

3. Notwithstanding par. (a), the department may not do any of the following with respect to a managing a forest production area:

a. Classify the area under any other land management classification.

b. Authorize or prescribe timber management techniques and activities, including commercial timber harvests, that are not consistent with the specific management objectives in the plan and with locally accepted timber production practices common to the industry.

c. Use management activities or techniques in the area that are not authorized in the plan for that area.

4. The department may do all of the following with respect to managing a forest production area:

a. Vary the specific objectives for different forest production areas, taking into consideration only the site's capability to produce timber, the type of timber produced in the area, the market for forest products, and the economy.

b. Establish the specific objective of extracting economic value from land while managing for timber products.

c. Authorize any management activity or technique that is consistent with the management objective specified in the plan for that area and compatible with the area's ecological capability and the practice of forestry.

(b) The department shall establish procedures for the preparation and modification of these plans, including procedures for public participation. In preparing and modifying plans under this subsection, the department shall use the best available information regarding the purposes and benefits of the state forests that the department acquires through inventories, evaluations, monitoring and research. In evaluating such information, the department shall consider both regional and local scales, including the impact on local economies. As new information becomes available, the department shall adapt its management of the state forest and, if necessary, the plan for the state forest.

History: 1995 a. 257; 2015 a. 55.

Cross-reference: See also ch. NR 44 and s. NR 1.24, Wis. adm. code.

The department has no authority to construct spectator sport facilities in state forests, nor has it authority to lease state forest lands for such purpose. 63 Atty. Gen. 519.

28.042 Forestry inventory; implementation. (1) The department shall undertake and maintain an inventory of forested areas on land owned by the state, including the areas of timber in these forested areas that have been or are to be harvested for purposes of state forestry management.

(2) The department, in performing its duties under this chapter, shall give priority to the completion of the inventory described in sub. (1) and the completion of the harvesting of timber that has been identified for harvesting in this inventory.

History: 2005 a. 25.

28.045 Educational requirements for field foresters. (1) Every person hired as a field forester by the department on or after November 20, 2003, shall have received a bachelor's or higher degree in forestry from a school of forestry with a curriculum accredited by the Society of American Foresters or an equivalent degree, as determined by the chief state forester.

(2) Notwithstanding s. 230.14 (3m), the department may require as a condition of application that an applicant for the position of field forester has met the educational requirements specified under sub. (1).

History: 2003 a. 66.

28.05 Timber sales; state forests. (1) LIMITATIONS. Cutting shall be limited to trees marked or designated for cutting by a forester employed by the department or by an individual determined by the department to be qualified to do such marking or designating and who is under the oversight of a forester employed by the department. The department may sell products removed in cultural or salvage cuttings and standing timber designated in timber sale contracts, but all sales shall be based on tree scale or on the scale, measure or count of the cut products. The department may require that a person purchasing products or standing timber under a timber sale contract provide surety for the proper performance of the contract either directly or through a bond furnished by a surety company authorized to do business in this state.

(2) PROCEDURE. Any sale of cut products or stumpage with either an estimated volume of at least 500 cord equivalents or an estimated value of at least $10,000 requires approval of the secretary and shall be by public sale. Before the department may sell timber that meets the volume or value threshold under this subsection, it shall announce the sale through 2 publications of a classified advertisement announcing the sale in a newspaper having general circulation in the county in which the timber to be sold is located.

(3) COOPERATING FORESTERS. (a) The department shall, by rule, establish a program that allows private cooperating foresters to assist the state in the harvesting and sale of timber from state forest lands to meet the annual allowable timber harvest established under s. 28.025. The rule shall include provisions authorizing the department to contract with cooperating foresters for the purpose of harvesting and selling timber from state forest lands and authorizing cooperating foresters to receive a portion of the proceeds from each timber sale. The department shall establish in the rule a method for determining what portion of the proceeds received from each timber sale shall be paid to the private cooperating foresters for their services in assisting the division in the harvesting and sale of timber from state forest lands. The division shall ask the council on forestry to recommend a method for determining what portion of the proceeds received from each timber sale shall be paid to private cooperating foresters under the rule.

(am) The department shall, by rule, establish a program that allows cooperating foresters and private contractors to assist the state in regenerating harvested areas of state lands to meet the annual allowable timber harvest established under s. 28.025. The rule shall include provisions authorizing the department to contract with cooperating foresters and private contractors to conduct activities that promote artificial and natural forest regeneration including site preparation, invasive species control, and tree planting. The rule shall authorize cooperating foresters and private contractors with whom the department contracts under this paragraph to receive a portion of the proceeds from the sale of timber harvested from state lands on which the cooperating forester or private contractor provided assistance under the contract.

(b) 1. Each private cooperating forester with whom the de-

partment contracts under par. (a) to harvest and sell timber from state forest lands shall be entitled to receive a portion of the proceeds from the sale of such timber in the amount determined by the department under par. (a).

2. Each cooperating forester or private contractor with whom the department contracts under par. (am) shall be entitled to receive the amount determined by the department as specified in the rule promulgated by the department under par. (am).

(c) Of the amount received by the department from each timber sale for which the department used the services of a cooperating forester or a private contractor under this subsection, the department shall credit to the appropriation account under s. 20.370 (2) (cy) an amount equal to the portion of the sale proceeds that the department is required to pay to the cooperating forester or private contractor.

History: 1989 a. 79; 1999 a. 9; 2003 a. 66; 2005 a. 166; 2007 a. 20; 2011 a. 32; 2017 a. 59; 2021 a. 128.

Although the Department of Natural Resources has authority to sell firewood, there is no requirement that it do so. 71 Atty. Gen. 23.

28.06 Forest nurseries. (1) LIMITATION. Only planting stock of species and sizes suitable for forest and woodlot planting and for planting by school pupils, including pupils at a tribal school, as defined in s. 115.001 (15m), to celebrate arbor day under s. 118.025 shall be produced in state forest nurseries. The department may employ labor at prevailing local wages for nursery operation or reforestation.

(2) DISTRIBUTION. In addition to use of planting stock on state lands, the department may distribute stock for growing forest products, for establishing windbreaks or shelterbelts, for control of soil erosion, and for game food or cover, but not for ornamental or landscape planting except by school pupils celebrating arbor day. Prices of planting stock shall be approved annually by the department and shall be based on the total cost of administering the forest nursery program under this section, including the cost of processing applications and producing, packaging and distributing nursery stock. To encourage forest planting, free stock may be allotted to any nonprofit organization or any school for the celebration of arbor day under s. 118.025.

(3) EXCHANGE, SALE OR PURCHASE. For the purpose of adjusting forest planting programs, the department may exchange stock with, sell stock to or purchase stock from a county, another state or the U.S. forest service.

(4) RESALE OF NURSERY STOCK. Any person who sells forestry stock secured from the department shall forfeit not more than $100.

(5) FORFEITURES. Any person who uses planting stock which he or she knows was produced in state forest nurseries for any purpose other than those specified in sub. (2) or for ornamental or landscape planting except as specified in sub. (2) shall forfeit not more than $500.

History: 1975 c. 365; 1981 c. 59; 1983 a. 422; 1985 a. 153; 1987 a. 27; 1993 a. 16; 2001 a. 16; 2005 a. 25 ss. 541f, 557g; 2009 a. 302; 2011 a. 32; 2023 a. 19.

Cross-reference: See also s. NR 1.20, Wis. adm. code.

28.07 Cooperation. The department may cooperate with the University of Wisconsin System, with departments and agencies of this or other states, with federal agencies and with counties, towns, corporations and individuals, to promote the best interest of the people and the state in forest surveys, research in forestry and related subjects, forest protection and in assistance to landowners to secure adoption of better forestry practice.

History: 1985 a. 13.

Cross-reference: See also ss. NR 1.21, 1.211, 1.212, and 1.213, Wis. adm. code.

28.08 Income. All income from state forest lands shall be paid into the state treasury to the credit of the conservation fund.

History: 1977 c. 418.

28.085 Timber. The department shall allocate for forest grants under s. 26.38, for the forestry education grant program under s. 26.40, for school forest transportation funding under s. 26.39 (5), for transfer to the appropriation under s. 20.292 (1) (km) for master logger apprenticeship grants under s. 38.04 (29), or for forestry internships under s. 26.39.

History: 2005 a. 25; 2007 a. 20.

28.10 County forests. The county board of any county may by resolution establish a county public forest and acquire land by tax deed or otherwise for that purpose.

28.11 Administration of county forests. (1) PURPOSE. The purpose of this section is to provide the basis for a permanent program of county forests and to enable and encourage the planned development and management of the county forests for optimum production of forest products together with recreational opportunities, wildlife, watershed protection and stabilization of stream flow, giving full recognition to the concept of multiple-use to assure maximum public benefits; to protect the public rights, interests and investments in such lands; and to compensate the counties for the public uses, benefits and privileges these lands provide; all in a manner which will provide a reasonable revenue to the towns in which such lands lie.

(2) DEFINED. "County forests" include all county lands entered under and participating under ch. 77 on October 2, 1963, and all county lands designated as county forests by the county board or the forestry committee and entered under the county forest law and designated as "county forest lands" or "county special-use lands" as hereinafter provided.

(3) POWERS OF COUNTY BOARD. The county board of any such county may:

(a) Enact an ordinance designating a committee to have charge of the county forests and specifying the powers, duties, procedures and functions of such committee. The members of such committee shall be appointed pursuant to s. 59.13 and may include well-qualified residents of the county who are not members of the county board.

(b) Establish regulations for the use of the county forests by the public and to provide penalties for their enforcement.

(c) Appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county-owned lands for the purpose of consolidating and blocking county forest holdings.

(d) Enter into cooperative agreements with the department for protection of county forests from fire.

(e) Establish aesthetic management zones along roads and waters and enter into long-term cooperative leases and agreements with the department and other state agencies or federal agencies for the use of the county forests for natural resources research.

(f) Establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting in county forests, but no ornamental or landscape stock shall be produced in such nurseries.

(g) Establish forest plantations and engage in silviculture, forest management and timber sales.

(h) Engage in other projects designed to achieve optimum development of the forest.

(i) Enter into leases or agreements, for terms not exceeding 10 years, to explore and prospect for ore, minerals, gas or oil upon any county forest lands. These leases or agreements shall contain proper covenants to safeguard the public interests in the lands involved and to guard against trespass and waste. The county board shall require proper security to ensure that the person engaged in

exploration or prospecting fully informs the county of every discovery of ore, minerals, gas or oil and restores the land surface to an acceptable condition and value if no discovery of valuable deposit is made or if county forest lands are not withdrawn from entry under this section. Before a lease or agreement under this paragraph is effective, approval of the lease or agreement by the department is required. If the department finds that the proposed lease or agreement fully complies with the law and contains the proper safeguards, it shall approve the lease or agreement.

(j) Enter into leases for the extraction of valuable deposits of ore, minerals, gas or oil upon any county forest land. If the extraction can be accomplished without permanently affecting the surface of the land, extraction leases may be entered into and extraction may occur while the land remains county forest lands. If the extraction cannot be accomplished without permanently affecting the surface of the land, extraction may not commence until the land is withdrawn as county forest land. Before an extraction lease under this paragraph is effective, approval of the lease by the department is required.

(k) Establish energy conservation projects which permit individual members of the public to remove up to 10 standard cords of wood without charge from county forest lands for individual home heating purposes. The county board shall limit removal of wood for energy conservation projects to wood that is unsuitable for commercial sale. The county board may require a permit to remove wood for energy conservation projects and may charge a fee for the permit to administer projects established under this paragraph. A county board shall restrict participation in projects established under this paragraph to residents, as defined under s. 29.001 (69), but may not restrict participation to residents of the county. No timber sale contract is required for wood removed under this paragraph.

(4) ENTRY OF COUNTY FOREST LANDS. (a) A county may file with the department an application for entry of county-owned land under this section. Such application shall include the description of the land and a statement of the purposes for which the lands are best suited. Upon the filing of such application the department shall investigate the same and it may conduct a public hearing thereon if it deems it advisable to do so at such time and place as it sees fit.

(b) If after such investigation the department finds that the lands constitute a well blocked county forest unit or that they block in with other established county forest lands and are otherwise suitable for the purposes of this section it shall make an order of entry designating such lands as county forest lands. All county lands entered under and participating under ch. 77 on October 2, 1963 shall be designated "county forest lands" without further order of entry.

(c) If the department finds that the lands are not suited primarily for timber production and do not otherwise qualify for entry under par. (b) but that they are suitable for scenic, outdoor recreation, public hunting and fishing, water conservation and other multiple-use purposes it shall make an order of entry designating such lands as "county special-use lands".

(d) A copy of the order of entry shall be filed with the county clerk and the county forestry committee, and the order shall also be recorded with the register of deeds.

(e) From and after the filing of such order of entry, the lands therein described shall be "county forest lands" or "county special-use lands", as the case may be, and shall so remain until withdrawn as hereinafter provided.

(f) The department may construct and use forest fire lookout towers, telephone lines and fire lanes or other forest protection structures on any lands entered under this section and the county clerk of such county shall execute any easement on or over such lands which the department may require for forest protection. The general public shall enjoy the privilege of entering such lands for the purpose of hunting, fishing, trapping and other recreation pursuits subject to such regulation and restrictions as may be established by lawful authority.

(5) MANAGEMENT. (a) On or before December 31, 2005, a comprehensive county forest land use plan shall be prepared for a 15-year period by the county forestry committee with the assistance of technical personnel from the department and other interested agencies, and shall be approved by the county board and the department. The plan shall include land use designations, land acquisition, forest protection, annual allowable timber harvests, recreational developments, fish and wildlife management activities, roads, silvicultural operations and operating policies and procedures; it shall include a complete inventory of the county forest and shall be documented with maps, records and priorities showing in detail the various projects to be undertaken during the plan period. The plan may include an application for aids under s. 23.09 (17m). The application will be considered an annual application for these aids during the 15-year period of the plan. The initial plan may be revised as changing conditions require. Upon the expiration of the initial 15-year plan period, and upon expiration of each subsequent 15-year plan period, the plan shall be revised and shall be in effect for another 15-year period. If a plan under this paragraph is not revised upon expiration of the 15-year plan period, or if a plan under s. 28.11 (5) (a), 2003 stats., is not revised on or before December 31, 2005, that plan shall remain in effect until such time as that plan is revised and the revised plan takes effect.

(b) An annual work plan and budget based upon the comprehensive plan shall be prepared by the county forestry committee with the assistance of a forester of the department. The plan shall include a schedule of compartments to be harvested and a listing by location of management projects for the forthcoming year. In addition the plan shall include other multiple-use projects where appropriate. A budget, listing estimated expenditures for work projects, administration and protection of the forest, shall accompany the annual plan both to be submitted to the county board for approval at the November meeting.

(5m) COUNTY FOREST ADMINISTRATION GRANTS. (a) 1. In this paragraph, "county forest administrator" means an individual who is employed to manage a county forest program under s. 28.10 and this section and who has any of the following qualifications, except that "county forest administrator" does not include an individual who is employed by the department:

a. A bachelor's or higher degree in forestry from a school of forestry with a curriculum accredited by the Society of American Foresters or an equivalent degree, as determined by the chief state forester.

b. A bachelor's or higher degree in natural resources, conservation, or wildlife and 3 or more years of experience managing a county forest program under s. 28.10 and this section.

c. An associate degree in forestry and 3 or more years of experience managing a county forest program under s. 28.10 and this section.

2. The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund all of the following for one county forest administrator:

a. Up to 50 percent of the county forest administrator's salary.

b. Up to 50 percent of the county forest administrator's fringe benefits, except that the fringe benefits may not exceed 40 percent of the county forest administrator's salary.

(am) The department may make grants, from the appropria-

tion under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund up to 50 percent of the costs of a county's annual dues to a nonprofit organization that provides leadership and counsel to that county's forest administrator and that functions as an organizational liaison to the department. The total amount that the department may award in grants under this paragraph in any fiscal year may not exceed $50,000.

(b) The department may not make a grant under this subsection for a year for which the department has not approved the annual work plan that was approved by the county board under sub. (5) (b). The department may not base the amount of a county's grant on the acreage of the county's forest land.

(c) The department may choose not to make a grant to a county under this subsection if the county board for that county is more than one year delinquent in approving a comprehensive county forest land use plan or revised plan under sub. (5) (a).

(5r) SUSTAINABLE FORESTRY GRANTS. (a) In this subsection, "sustainable forestry" has the meaning given in s. 28.04 (1) (e).

(b) The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund the cost of activities designed to improve sustainable forestry on the lands.

(c) The department may choose not to make a grant to a county under this subsection if the county board for that county is more than one year delinquent in approving a comprehensive county forest land use plan or revised plan under sub. (5) (a).

(6) TIMBER SALES AND CULTURAL CUTTINGS. (a) *Limitations.* The county forestry committee is authorized to sell merchantable timber designated in timber sale contracts and products removed in cultural or salvage cuttings. All timber sales shall be based on tree scale or on the scale, measure or count of the cut products; the Scribner Decimal C log rule shall be used in log scaling. All cuttings shall be limited to trees marked or designated for cutting by qualified personnel recognized as such by the department.

(b) *Procedures.* 1. Any sale of timber with either an estimated volume of at least 500 cord equivalents or an estimated value of at least $10,000 from a county forest requires approval of the secretary and shall be by sealed bid or public sale. Before a county may sell timber that meets the volume or value threshold under this subdivision, it shall announce the sale through publication of a classified advertisement announcing the sale in a newspaper having general circulation in the county in which the timber to be sold is located. Any sale of timber from a county forest with both an estimated volume below 500 cord equivalents and an estimated value below $10,000 may be made without prior advertising.

2. Timber sales shall be subject to presale appraisals by qualified personnel recognized as such by the department to establish minimum sales value. Appraisal methods and procedures shall be approved by the department.

3. No merchantable wood products may be cut on any lands entered under this section unless a cutting notice on forms furnished by the department is filed with and approved by the department. Any unauthorized cutting shall render the county liable to the state in an amount equal to double the stumpage value of the cut products which amount shall be paid by the county to the state. If the county does not pay the amount of such penalty to the state, the department may withhold such amount from future state contributions to the county.

4. Within 90 days after completion of any cutting operation, including timber trespass, but not more than 2 years after filing the cutting notice, the county shall transmit to the department on forms furnished by the department, a report of merchantable wood products cut. The department may conduct any investigations on timber cutting operations that it considers to be advisable, including the holding of public hearings on the timber cutting operations, and may assess severance share payments accordingly.

(c) *Exception.* Paragraph (b) 1. does not apply to any sale of timber that has been damaged by fire, snow, hail, ice, insects, disease, or wind. Timber damaged in that manner that is located in a county forest may be sold by the county forestry committee for that county on such terms and in such manner as the committee determines is in the best interest of the county.

(7) COUNTY FOREST CREDIT. The department shall set up an account for each county showing the lands entered; the sums previously paid under s. 28.14, 1961 stats.; the sums hereafter paid under this section; the sums previously received in the form of four-fifths severance tax collected pursuant to s. 77.06 (5), 1961 stats.; the sums received as forestry fund severance share under this section; and the sums previously reimbursed to the state on withdrawn lands pursuant to s. 28.12 (4), 1961 stats. Whenever the forestry fund account of any county shows an overpayment of such severance tax or severance share as of June 30 of any year, the department shall return such overpayment to the county. All severance taxes previously paid by any county and deposited in the general fund shall be credited to the forestry fund account of the county. If such credit exceeds the balance due to the forestry fund account from such county, the overpayment shall be credited to the county and applied in lieu of future severance shares due to the state until the county account is balanced.

(8) STATE CONTRIBUTION. (a) *Acreage payments.* As soon after April 20 of each year as feasible, the department shall pay to each town treasurer 30 cents per acre, based on the acreage of such lands as of the preceding June 30, as a grant out of the appropriation made by s. 20.370 (5) (bv) on each acre of county lands entered under this section. Beginning on July 10, 2021, the amount is 63 cents per acre.

(b) *Forestry fund account.* 1. A county having established and maintaining a county forest under this section is eligible to receive from the state from the appropriations under s. 20.370 (5) (bq) and (bs) an annual payment as a noninterest bearing loan to be used for the purchase, development, preservation and maintenance of the county forest lands and the payment shall be credited to a county account to be known as the county forestry aid fund. A county board may, by a resolution adopted during the year and transmitted to the department by December 31, request to receive a payment of not more than 50 cents for each acre of land entered and designated as "county forest land". The department shall review the request and approve the request if the request is found to be consistent with the comprehensive county forest land use plan. If any lands purchased from the fund are sold, the county shall restore the purchase price to the county forestry aid fund. The department shall pay to the county the amount due to it on or before March 31 of each year, based on the acreage of the lands as of the preceding June 30. If the amounts in the appropriations under s. 20.370 (5) (bq) and (bs) are not sufficient to pay all of the amounts approved by the department under this subdivision, the department shall pay eligible counties on a prorated basis.

2. The department may allot additional interest free forestry aid loans on a project basis to individual counties to permit the counties to undertake meritorious and economically productive forestry operations, including land acquisitions. These additional aids may not be used for the construction of recreational facilities or for fish and game management projects. Application shall be made in the manner and on forms prescribed by the department and specify the purpose for which the additional aids will be used. The department shall make an investigation as it deems necessary to satisfy itself that the project is feasible, desirable and

consistent with the comprehensive plan. If the department so finds, it may make allotments in such amounts as it determines to be reasonable and proper and charge the allotments to the forestry fund account of the county. These allotments shall be credited by the county to the county forestry aid fund. After determining the loans as required under subd. 1., the department shall make the remainder of the amounts appropriated under s. 20.370 (5) (bq) and (bs) for that fiscal year available for loans under this subdivision. The department shall also make loans under this subdivision from the appropriations under s. 20.370 (5) (bt) and (bu).

3. All payments made under this paragraph shall be known as the "forestry fund account".

(9) COUNTY FOREST SEVERANCE SHARE. (a) Except as provided under pars. (b) and (c), on timber cut from lands entered as "county forest lands" the county shall pay a severance share of not less than 20 percent of the actual stumpage sales value of the timber. A higher rate of payment may be applied when agreed upon by the department and the county. When cutting is done by the county and timber is not sold or is sold as cut forest products the severance share shall be 20 percent of the severance tax schedule in effect under s. 77.06 (2).

(ag) The severance share paid by a county to the state shall be credited to the forestry fund account of the county and shall be divided into 2 payments as follows:

1. An acreage loan severance share payment that is equal to the product of multiplying the amount of the severance share paid by the county by the percentage of the balance due in the forestry fund account of the county that is attributable to loans made under sub. (8) (b) 1.

2. A project loan severance share payment that is equal to the product of multiplying the amount of the severance share paid by the county by the percentage of the balance due that is attributable to loans made under sub. (8) (b) 2.

(am) The acreage loan severance share payments shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (5) (bq), and the project loan severance share payments shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (5) (bu).

(ar) 1. Notwithstanding s. 20.001 (3) (c), if the sum of the unencumbered balances in the appropriations under s. 20.370 (5) (bq), (bt) and (bu) exceeds $400,000 on June 30 of any fiscal year, the amount in excess of $400,000 shall lapse from the appropriation under s. 20.370 (5) (bq) to the conservation fund, except as provided in subd. 2.

2. Notwithstanding s. 20.001 (3) (c), if the amount in the appropriation under s. 20.370 (5) (bq) is insufficient for the amount that must lapse under subd. 1., the remainder that is necessary for the lapse shall lapse from the appropriation under s. 20.370 (5) (bu).

(b) No severance share payment is required if there is no balance due in the forestry fund account of the county. A severance share payment shall not exceed the balance due in the forestry fund account of the county.

(c) No severance share payment is required for wood removed from county forest lands for energy conservation projects established under sub. (3) (k).

(d) Of the gross receipts from all timber sales on the county forests 10 percent shall be paid annually by the county to the towns having county forest lands on the basis of acreage of such lands in the towns.

(11) WITHDRAWALS. (a) 1. The county board may by resolution adopted by not less than two-thirds of its membership make application to the department to withdraw lands entered under this section. The county board shall first refer the resolution to the county forestry committee, which shall consult with an authorized representative of the department in formulating its withdrawal proposal. The county board shall not take final action on the application until 90 days after referral of the application to the forestry committee or until the report of the forestry committee regarding the application has been filed with the board. The application shall include the land description, a statement of the reasons for withdrawal, and any restrictions or other conditions of use attached to the land proposed for withdrawal.

2. Upon the filing of an application to withdraw lands under subd. 1., the department shall investigate the application. During the course of its investigation the department shall make an examination of the character of the land, the volume of timber, improvements, and any other special values. In the case of withdrawal for the purpose of sale to any purchaser other than the state or a local unit of government, the department shall establish a minimum value on the lands to be withdrawn. In making its investigation the department shall give full weight and consideration to the purposes and principles set forth in sub. (1), and it shall also weigh and consider the benefits to the people of the state as a whole, as well as to the county, from the proposed use against the benefits accruing to the people of the state as a whole and to the county under the continued entry of the lands to be withdrawn. The department may conduct a public hearing on the application, if it considers it advisable, at a time and place that it determines, except that if the county requests a public hearing in writing, the department shall hold a public hearing.

3. If the department finds that the benefits after withdrawal of the lands described in the application under subd. 2. outweigh the benefits under continued entry of the lands and that the lands will be put to a better and higher use, it shall make an order withdrawing the lands from entry; otherwise it shall deny the application.

4. If the application is denied, the county board may, by resolution adopted by not less than two-thirds of its membership, appeal to a review committee. The department shall submit the findings of its investigation and of any hearing on a proposed withdrawal to the committee, which shall be composed of the following members:

a. One member appointed by the county board submitting the application for withdrawal.

b. One member who is appointed by the governor, who is from another county that has land enrolled under the county forest law, and who shall be chairperson of the review committee.

c. One member appointed by the department.

d. One member appointed by the University of Wisconsin from the College of Agricultural and Life Sciences.

e. One member to be selected by unanimous vote of the appointed members or, if the appointed members fail to achieve unanimity, by the governor.

5. The review committee appointed under subd. 4. shall, by majority vote within 60 days after receiving the findings of the department, do one of the following:

a. Approve the application for withdrawal if it finds the proposed use to be of a greater benefit considering all losses and benefits to the people of the state as a whole, as well as to the people of the county.

b. Provisionally deny the application for withdrawal giving specific reasons why it finds the proposal deficient and making any suggestions for revising the application to reduce the conflict of the proposed use with the public interest.

6. If the committee approves a withdrawal under subd. 5., it shall notify the county board of its approval stating, as necessary, specific procedures to be followed by the county relating to the withdrawal. The county board may then by a resolution approved by not less than two-thirds of its membership, withdraw the lands

from the county forest law and shall send copies of this resolution to the department and to the county register of deeds who shall record the resolution.

7. If the committee provisionally denies the proposed withdrawal under subd. 5., it may consider an amended application for withdrawal upon presentation of the application and supporting information, or it may require additional investigation of the amended application by the department before reconsidering the application. Any additional investigation shall include additional public hearings if requested by the county, the department, or the committee.

(b) If the application is approved the county shall reimburse the state the amounts previously paid to the county pursuant to sub. (8) (b) which reimbursement shall be credited to the county forestry fund account; except that the department may waive all or part of such reimbursement if it finds that the lands are withdrawn for a higher public use or that the amount of such reimbursement is unreasonable when compared to the value of the land. If the department has waived any portion of such reimbursement and if at any subsequent time the land ceases to be used for the purpose designated in the application for withdrawal, the full amount of reimbursement due the forestry fund account on the lands withdrawn shall immediately become due and payable to the department and shall be credited to the forestry fund account, unless the department finds and determines that the lands will continue to be put to another higher public use in which case payments of such reimbursement may be deferred by the department so long as the lands are devoted to a higher public use. If payment is not made prior to the time of the next forestry aid payment to the county, forestry aid payments in an amount to be determined by the department shall be withheld until the amount due the forestry fund account is reimbursed.

(12) ENFORCEMENT. If at any time it appears to the department that the lands are not being managed in accordance with this section it shall so advise the county forestry committee and the county clerk. If the condition persists the department may proceed against the persons responsible for such noncompliance under s. 30.03 (4).

(13) REVIEW. All orders of the department made under this section may be reviewed under ss. 227.52 to 227.58.

History: 1971 c. 215; 1975 c. 39 s. 734; 1975 c. 342; 1977 c. 29; 1979 c. 34 ss. 723 to 725, 2102 (39) (a); 1983 a. 27; 1983 a. 192 s. 304; 1983 a. 424 ss. 2 to 5; 1985 a. 29 ss. 655ce to 655cg, 3202 (39); 1985 a. 182 s. 57; 1987 a. 27; 1989 a. 31, 79; 1993 a. 16, 184, 301; 1995 a. 27, 201; 1997 a. 237, 248; 1999 a. 9; 2001 a. 16, 103; 2003 a. 242; 2005 a. 48; 2007 a. 20; 2021 a. 58, 128; 2025 a. 65; s. 35.17 correction in (5m) (a) 1. (intro.).

Cross-reference: See also ch. NR 48 and ss. NR 1.24, 47.60 to 47.75, and 302.03, Wis. adm. code.

A county forest withdrawal appeal review committee under sub. (11) (a) is not a state agency whose decisions are reviewable under ch. 227. Allen v. Juneau County Forest Withdrawal Appeal Review Committee, 98 Wis. 2d 103, 295 N.W.2d 218 (Ct. App. 1980).

County boards cannot sell or exchange county forest lands without first withdrawing them from the county forest program under sub. (11). 66 Atty. Gen. 109.

Conservation easements and restrictive covenants are permissible in county forests as long as they are consistent with and do not interfere with the purposes of county forests and the management plans properly developed for them under the county forest law. OAG 8-10.

28.15 National forests. (1) In this section:

(a) "Cooperative agreement" means an agreement between the secretary or the governor and the secretary of the federal department of agriculture under which the department is responsible for conducting forest management activities on federal land in this state.

(b) "Federal land" has the meaning given in 16 USC 2113a (a) (2).

(c) "Forest management activities" means harvesting and selling timber, activities that promote artificial and natural forest regeneration, and other activities to restore or improve the health of forests and forest watersheds, including fish and wildlife habitat in those forests and watersheds.

(2) As permitted by federal law, the department may conduct forest management activities on federal land under a cooperative agreement.

(3) As permitted by federal law, the department may contract with a county, private forester, or private contractor for the purpose of conducting forest management activities on federal land under a cooperative agreement.

(4) The department shall pay the initial costs of administering and implementing a cooperative agreement and any contracts entered into under sub. (3) from the appropriation under s. 20.370 (2) (mv).

(5) On June 30 of each fiscal year, 10 percent of the revenues received by the department in that fiscal year from the sale of timber from federal land under a cooperative agreement under this section shall lapse from the appropriation account under s. 20.370 (2) (cz) to the conservation fund. These amounts shall be lapsed until the total amount lapsed equals $750,000.

History: 2015 a. 55; 2017 a. 59.

28.20 Community forests. Any city, village, town or school district may acquire land, engage in forestry and appropriate funds for such purpose. The forest property may be located outside the city, village, town or school district limits.

History: 1985 a. 218; 1993 a. 246.

28.21 Management. Any municipality, by registering its forest with the department, shall be eligible to receive free planting stock from the state forest nurseries and the services of foresters in preparing and carrying out planting and forest management plans. No trees shall be cut except those marked or designated for cutting by a state forester. Products of the forest may be devoted to public use.

28.22 Timber sales; community forests. Any sale of timber from a community forest shall be based on the scale, measure, or count of the cut products. Any sale of timber with either an estimated volume of at least 500 cord equivalents or an estimated value of at least $10,000 from a community forest shall be by public sale. Before a city, village, town, or school district may sell timber from a community forest that meets the volume or value threshold under this section, it shall announce the sale through 2 publications of a classified advertisement announcing the sale in a newspaper having general circulation in the county in which the timber to be sold is located.

History: 1989 a. 79; 1999 a. 9; 2021 a. 128.

28.23 Income. All income from community forests shall be paid into the treasury, but may be assigned to the support of any legally authorized activity.

28.99 Parties to a violation. (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

History: 1975 c. 365.